Fed. 77. See 23 HARV. L. REV. 636. In such cases the value of the claim should be determined by the liability as fixed. See *In re Smith*, 146 Fed. 923, 926. The liability of the indorser becomes fixed only to pay the amount unpaid by the maker at maturity after due notice. It would seem, therefore, that the holder in the principal case should have been required to reduce his claim by the amount of the payments.

BANKS AND BANKING — EFFECT OF PAYMENT THROUGH CLEARING-HOUSE. — A check indorsed by the defendant was sent through the clearing-house and charged against the drawee bank. The bank paid up the balance at the clearing-house, but being notified of the drawer's insolvency, returned the check before the close of the banking day, without having debited the drawer's account. *Held*, that this constitutes a dishonor of the check. *Columbia-Knickerbocker Trust Co.* v. *Miller*, 48 N. Y. L. J. 670 (N. Y. Sup. Ct.).

In the New York clearing-house checks are canceled off and the net credits and liabilities adjusted with the clearing-house at about one o'clock. By its constitution, errors are rectified between the banks themselves, and money is immediately refunded for bad checks returned on the same banking day. Thus the payment through the clearing-house is only a conditional payment, which becomes absolute at the end of the banking day if the drawee bank has not returned the check, or by some unequivocal act, such as debiting the drawer's account, affirmatively ratified the payment. *Manufacturers' National Bank* v. *Thompson*, 129 Mass. 438; *Atlas National Bank* v. *National Exchange Bank*, 176 Mass. 300, 57 N. E. 605. See MORSE, BANKS AND BANKING, 4 ed., § 349. In the principal case the cause of refusal arose after the check was debited in the clearing-house. The clearing-house agreement, however, does not state that the cause of refusal must exist before that time, but simply gives an option to return until the close of the banking day. It would be inconvenient to find out in each case exactly when the cause of refusal arose. There is nothing to prevent the law from giving full effect to the intention of the parties.

CONFLICT OF LAWS — MARRIAGE — JURISDICTION FOR NULLIFICATION. — A marriage ceremony was performed in New Jersey between parties resident in New York, one of whom was under eighteen years of age. A statute made such a marriage voidable if performed in New York. In New Jersey the marriage, although forbidden, was probably valid. *Held*, that the New York court has jurisdiction to annul the marriage. *Cunningham* v. *Cunningham*, 206 N. Y. 341. See NOTES, p. 253.

CONSTITUTIONAL LAW — CONTEMPT OF COURT — POWER OF LEGISLATURE TO REGULATE PUNISHMENT FOR CONTEMPT. — A state statute provided that punishment for contempt should not exceed a fine of $50 or imprisonment for ten days. A court created by the constitution imposed a fine in excess of that allowed by the statute. *Held*, that the statute does not violate the state constitution. *Ex parte Creasy*, 148 S. W. 914 (Mo., Sup. Ct.).

Courts created under constitutions almost unanimously assert their inherent power to punish for contempt. *Easton* v. *State*, 39 Ala. 551. See *State* v. *Morrill*, 16 Ark. 384, 388. But see *Ex parte Hickey*, 12 Miss. 751, 776–780. The cases apparently conflict only as to whether the legislature can regulate that power. Some courts refuse to recognize such regulation on the ground that it is inconsistent with their inherent power to punish. *Railway Co.* v. *Gildersleeve*, 219 Mo. 170, 118 S. W. 86; *Burke* v. *Territory*, 2 Okl. 499, 37 Pac. 829. The principal case, however, follows the view that the power can be regulated. *In re Gorham*, 129 N. C. 481, 40 S. E. 311. See *Wyatt* v. *People*, 17 Colo. 252, 261, 28 Pac. 961, 964. A third view allows procedural regulation only. *Mahoney* v.

State, 33 Ind. App. 655, 72 N. E. 151. See *Little* v. *State*, 90 Ind. 338, 340. The logic of the first view seems inevitable. From the very meaning of the term inherent power is incapable of extrinsic regulation. *State ex inf. Crow* v. *Shepherd*, 177 Mo. 205, 76 S. W. 79; *Hale* v. *State*, 55 Oh. St. 210, 45 N. E. 199. Curiously enough, the courts enunciating the second and third views assent, by way of *dicta*, to the doctrine of inherent power to punish. See *State* v. *Kaiser*, 20 Or. 50, 56, 23 Pac. 964, 967; *In re Oldham*, 87 N. C. 23, 26; *Hawkins* v. *State*, 125 Ind. 570, 573, 25 N. E. 818, 819. Yet their holdings can only mean that the power is not inherent. If a restriction of the court's power is desired, it can logically and properly be secured by constitutional limitation. See 13 HARV. L. REV. 615. This reasoning, of course, does not apply to courts created by the legislature, whose powers can properly be regulated by statute. *Ex parte Robinson*, 19 Wall. (U. S.) 505. See *State* v. *Frew*, 24 W. Va. 416, 459.

CONSTITUTIONAL LAW — POLICE POWER — PROHIBITION OF SALE OF MALT LIQUOR. — The defendant agreed to purchase of the plaintiff company a certain amount of a beverage manufactured by it, which was harmless and non-intoxicating, containing malt but no alcohol. The agreement contemplated resale by the defendant in Mississippi, where a statute prohibited the sale of malt liquors. The defendant repudiated the contract on the ground that it was illegal. The state court held that the statute applied to the beverage in question. The plaintiff contended that the statute was unconstitutional as depriving it of liberty and property without due process of law. *Held*, that the statute is constitutional. *Purity Extract and Tonic Co.* v. *Lynch*, U. S. Sup. Ct., Dec. 2, 1912.

For a discussion of the principles involved, see 17 HARV. L. REV. 418.

CONSTITUTIONAL LAW — POWERS OF LEGISLATURE: DELEGATION OF POWERS — DELEGATION OF THE TAXING POWER TO DIRECTORS OF SCHOOL DISTRICT APPOINTED BY THE COURTS. — A statute authorized the directors of a school district who were appointed by the courts to levy taxes for school purposes. It fixed a maximum and minimum limit, but left the exact sum to be assessed to the discretion of the directors. It was contended that this involved a delegation of power repugnant to the provisions of the Constitutions of Pennsylvania and of the United States. *Held*, that the statute was valid. *Minsinger* v. *Rau*, 84 Atl. 902 (Pa.). See NOTES, p. 257.

CORPORATIONS — CITIZENSHIP AND DOMICILE OF CORPORATION — CONCLUSIVENESS OF STATEMENT OF LOCATION IN CHARTER. — A state statute provided that the charter of a corporation should state the name of the city or town in which the principal office or place of business was to be located. The plaintiff corporation, to secure a low rate of taxation, named a small town in its charter, though its principal office was in fact in a large city. The city assessed the corporation on its personalty and the corporation sought to enjoin the collection of the tax. *Held*, that the injunction should not be granted. *Inter-Southern Life Ins. Co.* v. *Milliken*, 149 S. W. 875 (Ky.). *Contra*, *Loyd's Executorial Trustees* v. *City of Lynchburg*, 75 S. E. 233 (Va.).

Domicile depends on presence in a place with intent to make it a home. *Mitchell* v. *United States*, 21 Wall. (U. S.) 350; *De Meli* v. *De Meli*, 120 N. Y. 485, 24 N. E. 996. Therefore in its primary sense it is applicable only to human beings. See DICEY, CONFLICT OF LAWS, 2 ed., 160. But for many purposes, such as taxation, it is important that a corporation should have a fixed and definite location. For this reason statutes often provide that the charter or certificate of incorporation shall state the principal place of business. See MASS. REV. LAWS, SUPP., 1902–1908, p. 877; HURD, ILL. REV.